

PRACTICALL LAW. 28

197.
Controlling and countermanning

The Common Law:

AND

The Sword of VVarre the Sword
of Iustice.

Against all the late Declarations and
publications of the Army, That they fight
for the Peoples Liberties and Lawes.



Printed at Exeter 1648.

The Preface.

THe strange and unparallel'd insolency of the Generall and Councell of Warre, in presuming to grant Injunctions to stay Suits and proceedings at Common Law, against Malignant Cavaliers, who have plundered them of all their estates, under pretext of Exeter Articles, &c. which they presume extend to all Malignant Constables, and others who have plundered and imprisoned the Parliaments best friends by their commands, though not within the minds nor intent of the Articles, and to enjoyn them to come before the Councell of Warre, 200. or 300. miles to shew cause why they should not surcease their Actions against these plunderers, and release their just judgement against them, and presuming to evince the Judges, Attourneyes, and others, not to proceed in such trialls: a more higher and tyrannicall power then ever the Councell-Table exhaulted, so that all the Kingdome must now be ruled, and the Common-Law of the Land it selfe over-ruled and stand by the Marshall Law, to the undoing of the Parliaments best friends, and rejoycing of Malignants, who enjoy their plunder and estates without recompence.

(1)

*****?*****

Practical Law controlling and coun-
termanding the Common-Law, and
the Sword of Warre the Sword of
JUSTICE.

WHereas Sir *Richard Vyryan* of *Trefsewarren* in the County of *Cornwall* Knight and Baronet, hath petitioned his Excellency *Sir Thomas Fairfax*, that *Edward Anthony* of the City of *Exeter* Goldsmith, hath sued and impleaded him the said *Sir Richard Vyryan*, contrary to the *Articles of the said City of Exeter*, within which the said *Sir Richard Vyryan* is comprized: the *Generall* to the end he might be satisfied of the truth of the particulars of the said Petition, referred the same to the Examination of the *Officers of his Army*, who at a public meeting, and upon a full Examination, found every particular in the said Commission to bee very clearly and punctually proved to be true, that *Sir Richard Vyryan* was Master of His *Majesties Mint* in the City of *Exeter* by Commission of his Majesty, that he is comprized within the said *Articles of Exon*, and by which he is to be indemnified for matters relating to the late differences between his Majesty and the *Parliament*, and that the said *Edward* (a) *Plundered* hath sued and impleaded him the said *Sir Richard Vyryan* for (a) *Plase* sent unto the said *Mint* to his undo- for his *Majesties* use by *Sir John Berkly* Knight, then ing, being a Governour of the said City of *Exeter*, and hath re- Goldsmith.

(b) By what

(2)

Law or Com- covered by Verdict against him the said Sir Richard
mission can a- Vyvyan, two hundred ninety one pound three shillings
ny such Order damages, besides costs. Now forasmuch as they the
be granted by said Officers have thereupon certified the Generall
the Generall the premisses to be true, and that the said Action and
or Advocate. Verdict and all proceedings thereon are against the Arti-

(c) O happy cles of Exeter, and therefore are of opinion, and de-
Malignants fire the General to command the (b) Judge Advocate to
that can find take care that the said Edward Anthony do forthwith
such Patro- reveale, or otherwaies (c) discharge him the said Sir Ri-
nage! O un- chard Vyvyan of and from the said Action, Verdict and
huppy Parlia- all proceedings thereon, or in default thereof to appear
ment friends at the Head Quarters to shew a good cause to the contra-
and sufferers ry, and that all further proceeding be said in the meane
who must bee while by the said Edward Anthony and his Attourneys,
thus enforced These are therefore to desire and require the same
even after Edward Anthony immediately upon sight hereof to re-
Judement and lease and discharge the same Sir Richard Vyvyan of and
Verdict to lose from the said Action and Verdict of 291. l. 3. s. damages
both their and costs of Suit, and all proceedings thereon, or other-
costs & dama- wise appeare at the Head- Quarters on Monday the 6. day
ges justly re- of March next coming, by nine of the clock in the fore-
covered a- noon, to shew good cause to the contrary, and all Attour-
gainst Cava- neyes and Solicitours are to take notice hereof, that there
liers & Plun- be no further proceedings in the said Suit in the meane
derers, and while, or to shew cause to the contrarie: Whereof they and
thus tossed up

and downe to their utter undoing against the expresse Letter of the Co-
venant, & many Declarations of both Houses to repair losses, & right
them out of Malignants estates! (d) Where there is now a new Coun-
cell Table erected (it seems) far more extravagant then ever the
King had any.

every

every of them be not so failed. Dated at (d) White-hall
this 19. of Febr. 1647.

Hen. Whaley, Advocate.

Who will ever adhere to, or act, or suffer for the
Parliament hereafter, or contribute towards the Ar-
my, if they must be thus requited for all their losses,
and made the verie scorne and derision both of their
enemies and friends? O heavens blush at this impi-
ous ingratitude.

To his Excellency Sir *Thomas Fairfax* Knight, Ge- * *Nota.*
nerall of the Parliaments Forces by * *Sea*
and *Land*.

The most humble Petition of John Collacot the elder,
of the Parish of Shebber within the Countie of Devon.

Humbly sheweth,

THat your Petitioner being *Constable* during
some part of the times of these unhappy dif-
ferences betwixt His Majesty and the *Parlia-*
ment, was in the time of his being *Constable* parti-
cularly commanded by the Warrants annexed, to be
assisting unto *Captaine Teo*: in the apprehending
of *John Perryn* senior.

That he was commanded by the said *Teo*: and
compelled by *Thomas Hewes* Provost Marshall and
his Troopers, to attend the said *Captaine Teo*: in
the execution of the said Warrants, which he durst
not refuse, the Kings party being then prevalent in
the Countrey.

That for this cause only the said *Perryn* hath com-
menced a Suit at *Law* against your Petitioner, which

will come to triall this *Affixes* to the Petitioners utter ruine, the *Articles of Exeter* (in which your Petitioner is comprehended) being not pleadable at Law, unlesse your *Excellencies* accustomed goodnesse be extended for his reliefe herein, which is according to your *Excellencies* engagement upon the rendering the said Garrison.

That the said *Captaine Troman* is comprized within the *Articles of Exon*, as appeareth by your *Excellencies* Certificate annexed, and hath made his Composition at *Goldsmiths-hall*, for his said *Delinquency*, within the four moneths mentioned in the said *Articles*, as appeareth by Certificate readie to bee produced.

(a) By what The Petitioner therefore beseecheth your *Excellent Commission* I *lency*, that he may have the benefit of the said *Articles* pray, without of *Exon*, he acting by and under the command of the the Houses Or- said *Captaine Yeo*: who hath compounded: And ders, and con- that your Honour would be pleased to (a) give contrary to their mand for the stay of all proceedings at Law against Protestations, the Petitioner.

to protect Mal-
lignants a-
gainst their
plunderers &
undoers.

And your Petitioners shall ever pray, &c.

Queen-street, March 8. 1647.

(b) By what
Orrinance,
Law, or Com-
mission, they being no Souldiers, but persons imprisoned and plundered of their estates, for their zeal and good affections to the Parliament.

If this Petition be true, I desire the Iudge to take care that the *Articles of Exon* be made good to the Petitioner, and that the parties complained of do forbear further proceedings at Law, or (b) shew cause to the Court Marshall to the contrary.

T. Fairfax.

Whereas *John Collocot* the elder of the Parish of
Sheb-

shebber in the County of Devon being a Constable in some part of the times of these unhappy differences, was in that time particularly commanded by Capt. Yeo a Commander in the Kings Army to be assisting unto him in the execution of a Warrant from Col. Sir John Berkley Governour of Exon for the apprehending John Perryn the Elder and others; which accordingly hee did. That the said Captaine Yeo was a person comprized within the Articles of Exon; and hath made his Composition at Goldsmiths-hall: That the said Collocot is sued at Law by the said Perryn for apprehending him as aforesaid; which is ^(a) contrary to the twelfth Article of Exon, the said Collocot having done nothing but by the procurement of the said Capt. Yeo: all which particulars being proved before me to be true: These are therefore to require the said Perryn within one and twenty dayes next after sight hereof, personally to appear before the Court Marshall of his Excellency Sir Thomas Fairfax, ^(b) wheresoever the same is or shall bee held to shew cause why the said Collocot should not have the benefit of the said Articles, or else discharge or release the said Collocot of his said Action; and in the meane time, there be no further proceedings at Law, and all Attorneys, Solicitours, and others whom it doth concern, are required to take notice hereof, the honour of his Excellency Sir Thomas Fairfax and Army being so ^(c) much concerned; for making good the said Articles. Dated at White-hall this 13. of March, 1647.

Copia Vera. Henry Whalley Advocate.

oversway the Generall and Armies honour, and their Patronage of Maligants.

(a) If so, then all malignant Constables, Officers, and others, that murdered, ravished, robbed, imprisoned, plundered or executed any of the Parliaments best friends, by command of any person or Officer of the Kings within the Articles of Exon, Oxen, &c. shall be totally exempted from all actions and prosecutions, though not within these Garri-sons, when seized or surrendered, and if so, all who have borne Arms against the Parliament shall be freed from Sequestrations and Suits upon such a generall extravagant construction. (b) Then they must follow him and it Kingdome to the other, and was there ever such a grievance or vexation heard of before or tyrannicall arbitrary usurpation. (c) The Lives of the Kingdome, and Rights and Liberties of the greatest friends to, and sufferers for the Parliament, ought to

Captaine Yeo: is authorized to make diligent search and apprehend *John Perryn* the elder, *John* and *Richard Perryn* his sonnes, *Mathew Bligh*, *Philip Kingford*, *Robert Martin* and *James Shawman* of the parish of *Holfworthy*, *John Coates* and *James Hobs* of *Milton Damrell*, *John Harding* of *Shabber*, *Thomas Wellington* of great *Torrington* and *John Markeham* of *Littleham*, and to bring them into safe custody, or cause them to be brought to the *Provost Marshall* of the City of *Exon*, there to remain in safe custody untill they and every of them shall answer all such matters as shall be objected against them and every of them, and *Thomas Hewes* the *Marshall* of the *North Division* of the said County of *Devon*, and the *Constables* of *Shabber* with all other his Majesties Officers and loving Subjects within the said County, are straightly charged and commanded to be aiding and assisting unto the said *Captain Yeo* in the due execution hereof, wherein they and every of them are not to faile, as they will answer the contrary at their utmost perills.

Given under my hand and Seale at *Berford house*
in *Exon* the 6. of *March*, 1643.

Vera Copia R.H.

John Berkley

FINIS.